

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE	*	CASE NO. 10-07708 BKT
	*	
MAYDA VAZQUEZ SANTIAGO	*	CHAPTER 13
	*	
DEBTOR	*	

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DEBTOR'S MOTION REQUESTING ORDER DISMISSING CASE  
DOCKET NO. 88 BE SET ASIDE/RECONSIDERATION AND  
DEBTOR'S REQUEST FOR CONVERSION TO CHAPTER 7

TO THE HONORABLE COURT:

**COMES NOW, MAYDA VAZQUEZ SANTIAGO**, debtor in the above captioned case, through the undersigned attorney, and very respectfully states and prays as follows:

1. On April 28, 2014, the Court issued an *Order Dismissing Case*, docket no. 88, whereby the above captioned case was dismissed upon the *Trustee's Motion to Dismiss*, docket no. 75.

2. The debtor respectfully submits that she did incur in the Plan arrears as stated by the Chapter 13 Trustee in his motion to dismiss, docket no. 75, but that the Plan arrears were caused by debtor's medical condition resulting from the recent tragic death of her non-filing spouse and which condition prevented the debtor from producing income during several months.

3. The debtor also respectfully submits that she did reply to the Trustee's motion to dismiss by filing a post-confirmation modified Plan, docket no. 77, whereby the Plan arrears were proposed to be cured. This Plan modification was "unfavorably" recommended by the Chapter 13 Trustee, docket no. 81, and the debtor requested and

Page – 2 –  
Debtor's motion for reconsideration  
Case no. 10-07708 BKT13

obtained additional time within to cure the objection raised by the Chapter 13 in his report for confirmation of the modified Plan, docket no. 82, 84 and 85. Basically, the Trustee's objection was a "feasibility" issue presented by debtor's Schedules "I" and "J" *vis a vis* the proposed Plan amended payment of \$1,160.00.

4. On April 28, 2014, this Honorable Court denied the proposed modified Plan, docket no. 87 and also issued an *Order Dismissing Case*, docket no. 88, whereby the above captioned case was dismissed based on the Trustee's motion to dismiss, docket no. 75.

5. The debtor is hereby respectfully requesting reconsideration of the Order of dismissal, whereby, if granted, the case would be re-opened, to allow the debtor to convert the case to a case under Chapter 7.

6. This motion requesting order of dismissal be set aside/reconsideration is grounded on Rule 9024 of the Federal Rules of Bankruptcy Procedure, which applies Rule 60 of the Federal Rules of Civil Procedure.

7. Under Rule 60 (b) (1) and (6), within a reasonable time, a debtor may request the Court to relieve him from a final order for the following reasons: mistake, inadvertence, surprise, or excusable neglect and/or for any other reason justifying relief from the operation of the judgment. Rule 60 (b) (1) and (6) of the Federal Rules of Civil Procedure.

8. In the present case, the debtor's failure to maintain current Plan payments to the Trustee was based on a temporary lack of income and a permanent reduction in the household income due to the death of debtor's non-filing spouse, which current income is insufficient to make the Chapter 13 Plan payments.

Page – 3 –  
Debtor's motion for reconsideration  
Case no. 10-07708 BKT13

9. Furthermore, the debtor has filed a Complaint for Damages resulting from the death of her non-filing spouse, which asset may be administered/liquidated through the Chapter 7 Trustee in order to pay all creditors in the above captioned case.

10. Therefore, the debtor respectfully prays the Court re-open and set aside the *Order Dismissing Case*, dated April 28, 2014, docket no. 88, allowing the debtor to continue under the protection of the Bankruptcy Court, and allowing the debtor to convert the present Chapter 13 case to a case under Chapter 7.

**WHEREFORE**, debtor respectfully requests this Honorable Court grant this motion and set aside/reconsider the April 28, 2014, *Order Dismissing Case* (docket no. 88) entered in the above captioned case, for the purposes of allowing the debtor to request a conversion to Chapter 7.

**NOTICE:** Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006 (f) if you were served by mail, any party against whom this paper has been served, or any other party to the action that objects to the relief sought herein shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

I **CERTIFY** that on this same date a copy of this motion was filed with the Clerk of the Court using the CM/ECF filing system which will send notification of this motion to: Jose

Page – 4 –  
Debtor's motion for reconsideration  
Case no. 10-07708 BKT13

Ramon Carrion Morales, Chapter 13 Trustee; US Trustee's Office, Monsita Lecaroz Arribas, Esq.; and that a copy of the same has been sent via US Mail to the debtor Mayda Vazquez Santiago, 790 Veredas De Los Cedros Gurabo PR 00778; and to all creditors and parties in interest appearing in the Master Address List, hereby attached.

**RESPECTFULLY SUBMITTED**, in San Juan, Puerto Rico, this 29<sup>th</sup> day of April, 2014.

/s/Roberto Figueroa Carrasquillo  
ROBERTO FIGUEROA CARRASQUILLO  
USDC #203614  
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Label Matrix for local noticing  
0104-3  
Case 10-07708-BKT13  
District of Puerto Rico  
Old San Juan  
Tue Apr 29 10:11:09 AST 2014

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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

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(d)ORIENTAL BANK & TRUST/EUROBANK  
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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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(d)JEFFERSON CAPITAL SYSTEMS LLC  
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End of Label Matrix  
Mailable recipients 42  
Bypassed recipients 4  
Total 46